

PATENT APPLICATION

042390.P5113

Remarks

Reexamination and reconsideration of this application, as amended, is respectfully requested. Claims 1-24 remain in the application.

Applicants believe there is no charge for this response as no new claims have been added.

Allowed Claims

Applicant would also like to gratefully acknowledge the Examiner's indication that claims 4, 7, 17, and 18 would be allowable if the objection as being dependent upon a rejected base claim were overcome. Rather than incorporate the limitations of one of the allowable dependent claims into the independent claims, Applicant would like to point out features or limitations of the independent base claims that are not anticipated or made obvious by the prior art.

Request for extension of time under 37 C.F.R. §1.136

Assignee herewith petitions the Assistant Commissioner for Patents to extend the time for response to the Office Action dated July 27, 2000 for 1 month(s) from October 27, 2000 to November 27, 2000.

Response to the 35 U.S.C. §102(b) Rejection

The Final Office Action rejects claims 1-2, 8, and 11-15, and 21-22 under 35 U.S.C. §102(b) as being anticipated by Rosen (US 4,972,480), or alternatively, rejects claims 3, 5-6, 9-10, 16, 19-20, and 23-24 under 35 USC § 103 as being obvious in view of Rose. Applicant respectfully traverses this rejection in view of the remarks that follow.

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As is well-established, in order to successfully assert a *prima facie* case of anticipation, the Examiner must provide a single prior art document that includes every element and limitation of the claim or claims being rejected. Likewise, since the Office Action is relying on a single reference as the basis for the rejection under 35 §103(a), a similar showing must be made. Therefore, if even one element or limitation is missing from the cited document, the Examiner has not succeeded in making a *prima facie* case.

Applicant begins with claim 1. Claim 1 specifically recites:

"A method comprising:

creating a first encoded pseudo-noise code, wherein the first encoded pseudo-noise code corresponds to a value of a signal to be transmitted; and
spreading a first signal by modulating the first signal with the first encoded pseudo-noise code."

It is respectfully asserted that, as one example, Rosen fails to meet either expressly or inherently the feature that the first encoded pseudo-noise code corresponds to a value of a signal to be transmitted.

According to the Final Office action, Rosen discloses this feature at column 1, lines 23-43. In doing so, the Final Office Action states that "[t]he encoded pseudo noise signal is the modified part of the pseudo noise signal and corresponds to the user." (emphasis added). The Final Office Action stated that "Rosen does disclose pseudo random code that corresponds to the information to be transmitted. ... If you have an information signal to be transmitted you encode the information in such a way that only the receiver with the same of pseudo noise code will extract the information." (page 4, line 5-8). However, Applicant would like to point out that this is not what is recited in claim 1.

Based on the comments provided in the Final Office Action, Applicant believes the Examiner does not fully appreciate what is referred to by the phrase "wherein the first encoded pseudo-noise code corresponds to the value of the signal to be transmitted." Applicant would like to clarify by way of example, however, it should be understood that the scope of Applicant's invention is in no way limited to this example.

In systems such as that referred to by Rosen, the pseudo noise code to be used with a transmission is not determined by the value of the information to be

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transmitted. Instead, parameters such as the time, built-in encryption keys, etc., are used to determine the particular pseudo code to be used.

In contrast, Applicant's claim 1 calls for the particular pseudo noise code to be determined, at least in part, on the value of the information to be sent. For example, as shown in Applicant's FIGs. 2b and 3, if a logical '5' is to be transmitted, an encoded pseudo noise code of "01111010" is used. However, a different code (e.g., "01001010" is used if a logical "4" is to be transmitted. Thus, different encoded pseudo noise codes may be used depending on the particular value of the information to be sent.

Applicant respectfully submits that column 1, lines 23-43, of Rosen does not teach or suggest that the pseudo noise code used to encrypt a transmission is determined in any way on the logical value of the information to be sent. Rather, a pseudo noise code is simply used to encode information to be sent and the value of the pseudo code is independent of the value of the information being sent. Thus, Rosen does not teach or suggest that the pseudo noise code to be used changes based, at least in part, on the particular value of the information to be sent.

Accordingly, Rosen cannot anticipate Applicant's claim 1 or make Applicant's claim 1 obvious. Since claims 2-6 and 9-10 depend from independent claim 1, they are not anticipated or made obvious by Rosen for at least the same reason. Additional arguments to distinguish the cited patent from claim 1 could have been made, but it is believed that the foregoing discussion is sufficient to overcome the Examiner's rejection.

With regard to claim 11, Applicant would like to point out that claim 11 recites, among other things, that "... the first encoded pseudo-noise code corresponding to a value of a signal to be transmitted." Thus, claim 11 is not anticipated by Rosen for the same or similar reason that claim 1 is not anticipated. Since claims 12-16 and 19-20 depend from claim 11, they are not anticipated or made obvious for at least the same reason.

With regard to claim 21, Applicant would like to point out that claim 21 recites, among other things, that "... the first encoded pseudo-noise code represents a value of a signal to be transmitted." Thus, claim 21 is not anticipated by Rosen for the same or similar reason that claim 1 is not anticipated. Since claims 22-24 depend from claim 21, they are not anticipated or made obvious for at least the same reason.

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Conclusion

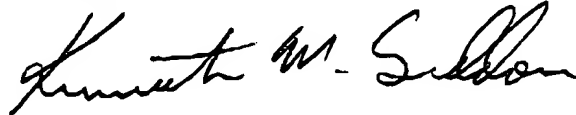
The foregoing is submitted as a full and complete response to the Final Office Action mailed July 27, 2000, and it is submitted that claims 1-24 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of claims 1-3, 5, 6, 8-16, and 19-24 is earnestly solicited.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (480) 554-9732 is respectfully solicited.

Respectfully submitted,

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